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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/26/2003

Anne Skaja Robinson

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09/04/2008

RATNERPRESTIA

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EXAMINER

STEELE, AMBER D

ART UNIT

PAPER NUMBER

1639

MAIL DATE

DELIVERY MODE

09/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Continued

1. The amendment filed August 5, 2008 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance.

Withdrawn Rejections

2. The declarations under 37 CFR 1.132 filed August 5, 2008 are sufficient to overcome the rejection of claims 1-12 based upon 35 U.S.C. 102(a) as being anticipated by Foguel et al. (i.e. by another due to Pedro Caetano de Sousa, Jr.) *Biotechnology and Bioengineering* 63(5): 552-558, 1999.

3. The rejection of claims 1, 3, 7, and 8 under 35 U.S.C. 102(b) as being anticipated by Silva et al. *Anomalous Pressure Dissociation of Large Protein Aggregates The Journal of Biological Chemistry* 264(27): 15863-15868, 1989 is withdrawn in view of the definition of protein aggregate in the present specification (i.e. does not include a native structure including the tetramer aggregate of hemoglobin taught by Silva et al., see definition below).

Arguments and Response

4. Applicants' arguments directed to the rejection under 35 USC 103 (a) as being unpatentable over Litt et al. and Silva et al. for claims 1-12 were considered but are not persuasive for the following reasons.

Applicants contend that Silva et al. only teach hemoglobin which is a native oligomeric protein with several subunits (i.e. not an aggregate by the definition in the present specification).

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Applicants' arguments are not convincing since the teachings of Litt et al. and Silva et al. render the method of the instant claims *prima facie* obvious. Litt et al. teach protein aggregates (i.e. non-native aggregates; please refer to the entire specification particularly columns 9, 17-18).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Definition from Specification

5. Paragraph 30 of the present specification: The term "protein aggregate" is used herein, in accordance with its ordinary meaning in the art. Specifically, the term protein aggregate is not intended to include the normal association between subunits of a native multi-subunit protein complex or the normal association of capsomeres in a native viral particle.

Future Communications

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amber D. Steele whose telephone number is 571-272-5538. The examiner can normally be reached on Monday through Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James (Doug) Schultz can be reached on 571-272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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ADS

August 18, 2008

/JD Schultz, PhD/

Supervisory Patent Examiner, Art Unit 1635